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Before the
Federal Communications Commission
Washington, D.C. 20554

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In the Matter of)
)
Request for Review)
Of the Decision of)
The Universal Service Administrator by)
)
Yeshiva Ahavas Torah)
Brooklyn, NY)
)
Federal-State Joint Board on Universal Service)
)
Changes to the Board of Directors)
Of the National Exchange Carrier)
Association, Inc.)

File No. SLD-135019

CC Docket No. 96-45

CC Docket No. 97-21 ✓

ORDER

Adopted: February 7, 2001

Released: February 8, 2001

By the Accounting Policy Division, Common Carrier Bureau:

1. The Common Carrier Bureau has under consideration a Request for Review by Yeshiva Ahavas Torah (Yeshiva), filed on April 11, 2000, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator).¹ Yeshiva seeks review of SLD's denial of its application for funding requests under the schools and libraries universal support mechanism. For the reasons set forth below, we deny Yeshiva's Request for Review and affirm SLD's denial of Yeshiva's application for discounts for telecommunications services.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.² The Commission's rules provide that, with one limited exception, an eligible school, library or consortium must seek competitive bids for all services eligible for support.³

¹ Letter from Alter Obermeister, Yeshiva Ahavas Torah, to Federal Communications Commission, filed April 11, 2000 (Request for Review).

² 47 U.S.C. § 254 (h)(1)(B); 47 C.F.R. §§ 54.502, 504.503.

³ 47 C.F.R. § 54.504.

3. To comply with this competitive bid requirement, the Commission's rules require that an applicant submit to the Administrator a completed FCC Form 470, in which the applicant lists the services for which it seeks discounts.⁴ The Administrator must post the FCC Form 470 to its website and the applicant is required to wait 28 days before making a commitment with a selected service provider.⁵ After the FCC Form 470 has been posted for 28 days, and the applicant has selected a service provider, the applicant must submit to the Administrator an FCC Form 471, which lists the services that have been ordered.⁶

4. Yeshiva's FCC Form 470 was posted to the SLD website on January 14, 1999.⁷ Yeshiva was therefore not eligible under program rules to contract with a service provider until the end of the 28-day posting period, on February 11, 1999. However, Yeshiva signed the certification portion of the FCC Form 470 (Item 31) on December 29, 1998, well prior to February 11, 1999.⁸

5. In its Request for Review, Yeshiva contends that the FCC Form 471 filing instructions required only that the Form 471 be filed subsequent to the 28-day period, and asserts that "there is no mention whatsoever as to when the form may be signed only as to when it can be filed."⁹ However, the filing instructions for Item 31, the Form 471 date of signature, explicitly state, "Item (31) requires that the date of signature of the Form 471 be provided. Please note that for applications requesting new services, this date CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 applications to the SLC Web Site."¹⁰ Contrary to Yeshiva's contention, therefore, the instructions clearly explain that the form may not be signed before the end of the 28-day period.

6. In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures. Given Yeshiva's failure to certify the

⁴ 47 C.F.R. § 54.504(b)(1).

⁵ 47 C.F.R. §§ 54.504(b)(3) and (b)(4), 54.511.

⁶ 47 C.F.R. § 54.504(c).

⁷ Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (Form 470), posted January 14, 1999.

⁸ Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (Form 471), received March 26, 1999 by SLD.

⁹ Request for Review at 1-2.

¹⁰ "Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form" (FCC Form 471) at 24 (December 1998) (FCC Form 471 Instructions).

Form 471 subsequent to the required posting period, SLD properly denied the application.¹¹

7. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Yeshiva Ahavas Torah, Brooklyn, New York, filed April 11, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert
Deputy Chief, Accounting Policy Division
Common Carrier Bureau

¹¹We have granted certain waiver requests where an unreasonable delay by SLD in posting an applicant's FCC Form 470 prevented the applicant from waiting the required 28 days and then filing the FCC Form 471 within the filing window. *See, e.g., Request for Review By Council Bluffs Community Schools, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-E007282, CC Dockets No. 96-45 and 97-21, Order, DA 00-1909 (Common Carrier Bur. rel. August 22, 2000). By contrast, there is no evidence in the instant appeal that SLD delayed in posting Yeshiva's FCC Form 470, or even that Yeshiva would have filed outside the filing window if it had waited the requisite 28 days.